

## **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

### **PROPOSED RULE AS PRELIMINARILY ADOPTED**

LSA Document #02-235

#### **DIGEST**

Amends 329 IAC 3.1-1-7 to incorporate by reference the July 1, 2002 edition of 40 CFR 260 through 40 CFR 270 and 40 CFR 273. Amends 329 IAC 3.1-4-1 to remove a reference to mercury-containing lamps. Amends 329 IAC 3.1-7-2 and 329 IAC 3.1-10-2 to require retention of the annual report required by IC 13-22-4-3.1 for three (3) years. Amends 329 IAC 3.1-9-2 to to require retention of the annual report required by IC 13-22-4-3.1 for three (3) years and to delete 40 CFR 264.555(e)(6). Effective thirty (30) days after filing with the secretary of state.

#### **HISTORY**

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8, Draft Rule, and Notice of First Public Hearing: September 1, 2002, Indiana Register (25 IR 4222).

Date of First Hearing: November 19, 2002.

Proposed Rule and Notice of Second Public Hearing: January 1, 2003, Indiana Register (26 IR 1239).

#### **PUBLIC COMMENTS UNDER IC 13-14-9-4.5**

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long. Because this proposed rule is not substantively different from the draft rule published on September 1, 2002 at 25 IR 4222, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

#### **SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING**

On November 19, 2002, the solid waste management board (board) conducted the first public hearing/board meeting concerning the development of amendments to 329 IAC 3.1. No comments were made at the first hearing.

**329 IAC 3.1-1-7**

**329 IAC 3.1-4-1**

**329 IAC 3.1-7-2**

**329 IAC 3.1-9-2**

**329 IAC 3.1-10-2**

#### **DRAFT RULE**

SECTION 1. 329 IAC 3.1-1-7, AS AMENDED AT 25 IR 3111, SECTION 1, IS

AMENDED TO READ AS FOLLOWS:

**329 IAC 3.1-1-7 Incorporation by reference**

Authority: IC 13-19-3-1; IC 13-22-4

Affected: IC 13-14-8; 40 CFR 260.11

Sec. 7. (a) When incorporated by reference in this article, references to 40 CFR 260 through 40 CFR 270 and 40 CFR 273 shall mean the version of that publication revised as of July 1, ~~2001~~ **2002**. When used in 40 CFR 260 through 40 CFR 270 and 40 CFR 273, as incorporated in this article, references to federally incorporated publications shall mean that version of the publication as specified at 40 CFR 260.11. The following publications are also incorporated by reference:

- (1) 40 CFR 146 (1995).
- (2) 40 CFR 60, Appendix A (1995).

(b) Federal regulations that have been incorporated by reference do not include any later amendments than those specified in the incorporation citation in subsection (a). Sales of the Code of Federal Regulations are handled by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The telephone number for the Government Printing Office is (202) 512-1800. The incorporated materials are available for public review at the offices of the department of environmental management.

(c) Where exceptions to incorporated federal regulations are necessary, these exceptions will be noted in the text of the rule. In addition, all references to administrative stays are deleted.

(d) Cross-references within federal regulations that have been incorporated by reference shall mean the cross-referenced provision as incorporated in this rule with any indicated additions and exceptions.

(e) The incorporation of federal regulations as state rules does not negate the requirement to comply with federal provisions which may be effective in Indiana which are not incorporated in this article or are retained as federal authority. (*Solid Waste Management Board; 329 IAC 3.1-1-7; filed Jan 24, 1992, 2:00 p.m.: 15 IR 909; filed Oct 23, 1992, 12:00 p.m.: 16 IR 848; filed May 6, 1994, 5:00 p.m.: 17 IR 2061; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3353; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1111; filed Oct 31, 1997, 8:45 a.m.: 21 IR 947; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2739; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; filed Mar 6, 2000, 8:02 a.m.: 23 IR 1637; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2431; errata filed Oct 15, 2001, 11:24 a.m.: 25 IR 813; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3111*)

SECTION 2, 329 IAC 3.1-4-1 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 3.1-4-1 Applicability**

Authority: IC 13-14-8; IC 13-19-3-1

Affected: IC 13-14-8; IC 13-11-2; 40 CFR 260 through 40 CFR 270

Sec. 1. (a) In addition to the definitions contained in IC 13-11-2 and in this rule, the definitions contained in 40 CFR 260 through 40 CFR 270 are hereby adopted and incorporated by reference and made applicable to this article, except as provided otherwise in subsection (b).

(b) The following are exceptions to federal definitions:

(1) Delete the definitions of Aexisting tank system@ or Aexisting component@ in 40 CFR 260.10 and substitute the definition under section 11 of this rule.

(2) Delete the definitions of Anew tank system@ or Anew tank component@ in 40 CFR 260.10 and substitute the definition under section 18 of this rule.

~~(3) In addition to the definition of Auniversal waste@ in 40 CFR 260.10, add the following: Mercury containing lamps as described in 329 IAC 3.1-16-2(3).~~

*(Solid Waste Management Board; 329 IAC 3.1-4-1; filed Jan 24, 1992, 2:00 p.m.: 15 IR 920; errata filed Feb 6, 1992, 3:15 p.m.: 15 IR 1024; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3354; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3364; errata filed Jan 10, 2000, 3:01 p.m.: 23 IR 1109; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 3. 329 IAC 3.1-7-2, AS AMENDED AT 25 IR 3112, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 3.1-7-2 Exceptions and additions; generator standards**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-22-2; 40 CFR 262

Sec. 2. Exceptions and additions to federal standards for generators are as follows:

(1) Delete 40 CFR 262.12(a) and substitute AA generator who has not received an EPA identification number may obtain one by applying on forms provided by the commissioner. Upon receipt of the completed forms, an EPA identification number will be assigned.®.

(2) In addition to the requirements of 40 CFR 262, Subpart B and the appendix to 40 CFR 262, the generator shall enter the EPA hazardous waste number for each waste on the Uniform Hazardous Waste Manifest (EPA Form 8700-22) as follows:

(A) Enter the four (4) digit EPA hazardous waste number from 40 CFR 261 that identifies the waste in item AI® of the manifest form or item AR® of the continuation sheet (EPA Form 8700-22A).

(B) If multiple EPA hazardous waste numbers apply, enter the hazardous waste numbers as follows:

(i) Enter the one (1) EPA hazardous waste number that identifies the most distinctive or most hazardous property of the waste in item AI® of the manifest form or item AR® of the continuation sheet.

(ii) The remaining EPA hazardous waste numbers may be entered in item AJ® of the manifest form or item AS® of the continuation sheet.

(C) For nonhazardous or unregulated waste that may be included in the shipment, enter ANONE® in item AI®.

**(3) In addition to the requirements of 40 CFR 262.40, a generator shall keep the**

**reports required by IC 13-22-4-3.1 on file for at least three (3) years after submission to the department.**

~~(3)~~(4) Delete 40 CFR 262.41 dealing with biennial reporting and substitute section 14 of this rule.

(4)(5) In 40 CFR 262.42(a)(2), delete ~~A~~in the Region in which the generator is located~~@~~.

~~(5)~~(6) Delete 40 CFR 262.43 dealing with additional reporting and substitute section 15 of this rule.

~~(6)~~(7) In 40 CFR 262.53 and 40 CFR 262.54, references to the A~~E~~PA~~@~~ are retained. A copy of the notification of intent to export, which must be submitted to the EPA, must also be submitted to the Office of Land Quality, Indiana Department of Environmental Management, P.O. Box 7035, Indianapolis, Indiana 46207-7035.

~~(7)~~(8) Exception reports required from primary exporters pursuant to 40 CFR 262.55 must be filed with the Regional Administrator of the EPA and the commissioner.

~~(8)~~(9) Delete 40 CFR 262.56 dealing with annual reports for exports and substitute section 16 of this rule.

~~(9)~~(10) In 40 CFR 262.57(b), the reference to the A~~a~~administrator~~@~~ is retained. The commissioner may also request extensions of record retention times for hazardous waste export records.

*(Solid Waste Management Board; 329 IAC 3.1-7-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 925; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3355; filed Jan 3, 2000, 10:00 a.m.: 23 IR 1098; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2432; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3112)*

SECTION 4. 329 IAC 3.1-9-2, AS AMENDED AT 25 IR 3112, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 3.1-9-2 Exceptions and additions; final permit standards**

Authority: IC 13-14-8; IC 13-22-2-4

Affected: IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 264

Sec. 2. Exceptions and additions to federal final permit standards are as follows:

(1) Delete 40 CFR 264.1(a) dealing with scope of the permit program and substitute the following: The purpose of this rule is to establish minimum standards which define the acceptable management of hazardous waste at final state permitted facilities.

(2) In 40 CFR 264.4 dealing with imminent hazard action, delete A7003 of RCRA~~@~~ and insert AIC 13-30-3 and IC 13-14-10~~@~~.

(3) Reports to the state required at 40 CFR 264.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.

(4) The written spill report required by 40 CFR 264.56(j) must also include information deemed necessary by the commissioner or the commissioner-s authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.

(5) In 40 CFR 264.75 dealing with the biennial report, delete A~~E~~PA form 8700-13B~~@~~ and insert Aforms provided by the commissioner~~@~~.

(6) In 40 CFR 264.76 dealing with unmanifested waste reports, delete AThe unmanifested waste report must be submitted on EPA form 8700-13B@.

(7) In 40 CFR 264.77 regarding additional reports, insert after the first sentence in (c), AGround water data for laboratory analytical results and field parameters must be submitted as follows:

(A) Two (2) paper copies on the most current form prescribed by the commissioner.

(B) In addition to the paper copies required in clause (A), an electronic report in a format prescribed by the commissioner.

(d) The commissioner may request other information, as required by Subparts F, K through N, and AA through CC of this part, be submitted in an electronic format as prescribed by the commissioner.®.

**(8) In addition to the requirements in 40 CFR 264, Subpart E, the reports required by IC 13-22-4-3.1 must be kept on file for at least three (3) years after submission to the department.**

~~(8)~~**(9)** Delete 40 CFR 264, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-15.

~~(9)~~**(10)** Exceptions and additions to the standards for tank systems in 40 CFR 264, Subpart J are under section 3 of this rule.

~~(10)~~**(11)** In 40 CFR 264.221(e)(2)(i)(C), delete Apermits under RCRA Section 3005(c)@ and insert Awith final state permits®.

~~(11)~~**(12)** Delete 40 CFR 264.301(l).

~~(12)~~**(13)** Delete 40 CFR 264, Appendix VI.

~~(13)~~**(14)** In 40 CFR 264.316(b), delete A(49 CFR Parts 178 and 179)@ and substitute A(49 CFR Part 178)@.

~~(14)~~**(15)** In 40 CFR 264.316(f), delete Afiber drums@ and substitute Anonmetal containers®.

**(16) Delete 40 CFR 264.555(e)(6).**

*(Solid Waste Management Board; 329 IAC 3.1-9-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 935; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3356; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1112; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2741; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2433; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3112)*

SECTION 5. 329 IAC 3.1-10-2, AS AMENDED AT 25 IR 3113, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

### **329 IAC 3.1-10-2 Exceptions and additions; interim status standards**

Authority: IC 13-14-8; IC 13-22-4

Affected: IC 4-21.5; IC 13-14-10; IC 13-22-2; IC 13-30-3; 40 CFR 265

Sec. 2. Exceptions and additions to federal interim status standards are as follows:

(1) In 40 CFR 265.1(a) dealing with scope of the permit, delete Anational@ and insert Astate®.

(2) In 40 CFR 265.1(b), delete Asection 3005 of RCRA@ and insert A329 IAC 3.1-13@ in both places where it occurs.

- (3) Delete 40 CFR 265.1(c)(4).
- (4) In 40 CFR 265.4 dealing with imminent hazard action, delete A7003 of RCRA@ and insert AIC 13-30-3 and IC 13-14-10@.
- (5) Reports to the state required at 40 CFR 265.56(d) shall be communicated immediately to the Office of Land Quality, Department of Environmental Management, 100 North Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206-6015, (317) 233-7745, or (888) 233-7745 (toll-free in Indiana). In addition to the requirements of this rule, all requirements for spill reporting under 327 IAC 2-6.1 shall be complied with.
- (6) The written spill report required by 40 CFR 265.56(j) must also include information deemed necessary by the commissioner or the commissioner-s authorized agent to carry out the purpose and intent of 327 IAC 2-6.1.
- (7) In 40 CFR 265.75 dealing with the biennial report, delete AEPA form 8700-13B@ and insert Aform provided by the commissioner@.
- (8) In 40 CFR 265.76 dealing with unmanifested waste reports, delete AThe unmanifested waste report must be submitted on EPA form 8700-13B@.
- (9) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (c), AGround water data for laboratory analytical results and field parameters must be submitted as follows:
- (A) Two (2) paper copies on the most current form prescribed by the department.
  - (B) In addition to the paper copies required in (A), an electronic report in a format prescribed by the department.@.
- (10) In 40 CFR 265.77 regarding additional reports, insert, after the first sentence in (d), AThe commissioner may request other information as required by Subparts AA through CC of this part be submitted in an electronic format as prescribed by the commissioner.@.
- (11) In addition to the requirements in 40 CFR 265, Subpart E, the reports required by IC 13-22-4-3.1 must be kept on file for at least three (3) years after submission to the department.**
- ~~(11)~~**(12)** In 40 CFR 265.90 dealing with ground water monitoring requirements, delete all references to effective date.
- ~~(12)~~**(13)** Delete 40 CFR 265.112(d)(3)(ii) and substitute: AIssuance of a judicial decree or final order under section 3008 of RCRA, judiciary decree under IC 13-30-3, or final administrative order under IC 4-21.5 to cease receiving hazardous waste or close@.
- ~~(13)~~**(14)** Delete 40 CFR 265.118(e)(2) and substitute the language in subdivision (11).
- ~~(14)~~**(15)** Delete 40 CFR 265, Subpart H dealing with financial requirements and substitute 329 IAC 3.1-14.
- ~~(15)~~**(16)** In 40 CFR 265.191(a), the January 12, 1988, deadline date for integrity assessments shall only apply to existing interim status or permitted tank systems that are underground and cannot be entered for inspection. Integrity assessments shall be completed on all remaining tank systems by December 20, 1989.
- ~~(16)~~**(17)** In 40 CFR 265.191(c), delete AJuly 14, 1986@ and insert AJune 20, 1988@.
- ~~(17)~~**(18)** In 40 CFR 265.193(a), delete all references to deadline dates for secondary containment for existing systems and substitute the dates specified in 329 IAC 3.1-9-3(c)(1) through 329 IAC 3.1-9-3(c)(8).
- ~~(18)~~**(19)** In 40 CFR 265.301(d)(2)(i)(B) dealing with the definition of the term Aunderground source of drinking water@, delete AI44.3 of this chapter@ and insert A40 CFR 270.2@.

~~(19)~~**(20)** In 40 CFR 265.301(d)(2)(i)(C), delete ARCRA Section 3005(c)@ and insert A329 IAC 3.1-13@.

~~(20)~~**(21)** In 40 CFR 265.314(g)(2) dealing with the definition of the term Aunderground source of drinking water@, delete A144.3 of this chapter@ and insert A40 CFR 270.2@.

~~(21)~~**(22)** In 40 CFR 265.316(b), delete A(49 CFR Parts 178 and 179)@ and substitute A(49 CFR Part 178)@.

~~(22)~~**(23)** In 40 CFR 265.316(f), delete Afiber drums@ and substitute Anonmetal containers@.

~~(23)~~**(24)** Delete 40 CFR 265.430(b) and substitute the following: AThe requirements of this subpart apply to owners and operators of wells used to dispose of hazardous waste which are classified as Class I and Class IV in section 3 of this rule.@.

*(Solid Waste Management Board; 329 IAC 3.1-10-2; filed Jan 24, 1992, 2:00 p.m.: 15 IR 937; errata filed Nov 8, 1995, 4:00 p.m.: 19 IR 353; filed Jul 18, 1996, 3:05 p.m.: 19 IR 3357; filed Aug 7, 1996, 5:00 p.m.: 19 IR 3365; filed Jan 9, 1997, 4:00 p.m.: 20 IR 1113; filed Mar 19, 1998, 10:05 a.m.: 21 IR 2742; errata filed Apr 8, 1998, 2:50 p.m.: 21 IR 2989; errata filed Aug 10, 2000, 1:26 p.m.: 23 IR 3091; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jan 22, 2001, 9:46 a.m.: 24 IR 1617; errata filed Mar 19, 2001, 10:31 a.m.: 24 IR 2470; filed Apr 5, 2001, 1:29 p.m.: 24 IR 2434; filed Jun 3, 2002, 10:40 a.m.: 25 IR 3113)*